

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-5360-2021(O&M)

Date of decision:-3.8.2021

Sahil Khan

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Pankaj Mehta, Advocate
for the petitioner.

Mr.Karan Garg, AAG, Haryana.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition for regular bail has been filed by petitioner – Sahil Khan – an accused in FIR No.557 dated 25.11.2020, under Sections 21-B of NDPS Act, 1985, registered with Police Station City, Tohana, District Fatehabad.

In nutshell, the prosecution story is that on 25.11.2020, a police party headed by ASI Om Parkash, while being present in the area of Ratia Turning, Tohana on Bhuna Bye-pass within jurisdiction of Police Station City, Tohana, District Fatehabad, intercepted a motorcycle coming from the side of Bhuna bye-pass; the motorcycle was being driven by Kuldeep @ Kukkan son of Balbir, resident of Bazigar Mohalla, Tohana and the present petitioner Sahil Khan was pillion riding that motorcycle bearing registration No.HR23E/8368; the personal search of both the riders was conducted as per law, which resulted in recovery of 7 gms. of

heroin from right side pocket of lower of Kuldeep @ Kukkan, whereas petitioner/accused Sahil Khan was also found to be in possession of 7 gms. of heroin contained in a plastic pouch, which he was carrying in right pocket of his lower. The recovered contraband was seized. Accused were arrested in this case. After registration of the FIR, the investigation in the case started. Both the accused during interrogation disclosed that they had purchased recovered contraband from one Rinku son of Dharampal @ Om Parkash, resident of Fatehabad Road, Bhuna. The petitioner/accused had filed an application for regular bail in the Court of Sessions at Fatehabad, which was assigned to learned Additional Sessions Judge, Fatehabad, who vide a detailed order dated 22.12.2020 dismissed the same, as such, the petitioner has approached this Court with the same request.

Notice of the petition was given to respondent – State and counsel representing the State has put in appearance.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the petitioner states that the petitioner is behind bars for a period of more than seven months; that co-accused of the present petitioner, namely Kuldeep @ Kukkan has since been granted regular bail by learned Additional Sessions Judge, Fatehabad vide order dated 15.12.2020; the recovered contraband from the petitioner is also to that extent, therefore, he be also granted such concession, which was wrongly denied to him by learned Additional Sessions Judge, Fatehabad.

On the other hand, learned State counsel has contended that

the petitioner/accused is involved in seven more criminal cases, as per details below:

- (i) FIR No.1178 dated 30.11.2017, under Section 47-A Prisons Act, PS Sadar, Hisar.
- (ii) FIR No.408 dated 23.12.2014, under Sections 302, 147, 149 IPC and Arms Act, PS Adampur, Hisar.
- (iii) FIR No.89/2017, under Section 174-A IPC, PS Adampur, Hisar.
- (iv) FIR No.175 dated 25.6.2017, under Sections 398, 401 IPC and 25 of Arms Act, PS Adampur, Hisar.
- (v) FIR No.236 dated 18.7.2020, under Sections 120-B, 398, 401 IPC and Arms Act, PS Bhuna, Fatehabad.
- (vi) FIR No.205 dated 24.6.2020, under Sections 120-B, 212, 307, 34 IPC, PS Bhuna, Fatehabad.
- (vii) FIR No.338 dated 26.11.2020, Under Section 25 of Arms Act, PS Kalayat, Kaithal.

In that way, the petitioner is a habitual criminal and if granted concession of bail, there is every likelihood of his absconding and giving threats to the prosecution witnesses so as to make them resile from their statements. As such, the petition be disallowed.

After hearing the rival contentions, I find that though the recovery of contraband effected in this case amounts to non-commercial quantity and bar of Section 37 of NDPS does not come into play but considering the fact that the petitioner is involved in seven more criminal cases, he comes out to be a habitual criminal. The apprehension expressed

by the State counsel that if petitioner is granted bail, there is every likelihood to his absconding and even tampering with the prosecution evidence cannot be brushed aside lightly. The petitioner if allowed regular bail may prove to be a threat to public peace and tranquility by his indulging in criminal activities again since he is also involved in several criminal cases relating to heinous crime.

Therefore, the petition is doomed for failure and is dismissed accordingly.

3.8.2021

Brij

(H.S.MADAAN)**JUDGE****Whether reasoned/speaking : Yes/No****Whether reportable : Yes/No**